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Testimony on behalf of the
American Civil Liberties Union of the District of Columbia
before the D.C. Council Committee on the Judiciary and Public Safety
Hearing on B26-0671, the Protecting Victims Amendment Act of 2026 and
B26-0835, the Supporting Survivors of Domestic Violence and Abuse Amendment Act of 2026

Roundtable on October 27, 2026
Submitted on October 28, 2026

Chairperson Pinto and members of the Committee, thank you for holding this roundtable and for the opportunity to present testimony today on behalf of the American Civil Liberties Union of the District of Columbia (ACLU-D.C.) and our over 10,000 members and supporters across the District. Our testimony addresses our recommendations regarding B26-0671, the Protecting Victims Amendment Act of 2026,[1] and B26-0835, the Supporting Survivors of Domestic Violence and Abuse Amendment Act of 2026.[2]

I. The Protecting Victims Amendment Act will increase criminalization without improving public safety.

Although the Protecting Victims Amendment Act is framed as a comprehensive reform effort designed to increase accountability for abusers and protect victims and survivors, its provisions instead disproportionately focus on criminalization. Increasing criminalization and enhancing penalties are not solutions tailored to address many of the longstanding issues in the criminal legal system or increase public safety for communities overall. Domestic violence must be taken seriously, and survivors and advocates must have the opportunity to meaningfully contribute to policy that impacts their families, communities, and lives. Legislation should be developed with the involvement of these important stakeholders from its incarnation, which will lead to effective policy that keeps everyone safer and more secure.

Increased criminalization, including expanded pretrial detention, disproportionately impacts Black communities,[3] immigrants, LGBTQIA+ individuals, and other marginalized communities frequently targeted and overrepresented in the criminal legal system. Additionally, domestic violence advocates have cautioned that abusers often weaponize the criminal legal system against survivors. This is especially important to consider in the context of any proposed changes that increase criminal penalties, given that many survivors will potentially be subjected to the same charging and sentencing enhancements, including mandatory minimums, that proponents of this legislation say will keep them safe.

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[1] B26-0671 - Protecting Victims Amendment Act of 2026, https://lims.dccouncil.gov/Legislation/B26-0671.
[2] B26-0835 - Supporting Survivors of Domestic Violence and Abuse Amendment Act of 2026, https://lims.dccouncil.gov/Legislation/B26-0835.
[3] Bill 26-0187, Racial Equity Impact Assessment, PEACE DC Omnibus Amendment Act of 2025, available at https://www.dropbox.com/scl/fi/z6r9eujcw2ki8iw0m00s0/B26-0187-Peace-DC-Omnibus-Print-REIA.pdf?rlkey=luxjeeu6gn1lljqekdqq3g9aq&st=i4e4wv5n&dl=0.

Some of the bill's provisions are duplicative, given that sentencing enhancements already exist in D.C. Code for convictions involving an intrafamily offense.[4] Other provisions expand the definitions of certain crimes, and one provision imposes a mandatory minimum prison term of one year for a person convicted of violating a protection order who has one or more prior, separate convictions for the same type of offense, which would represent a significant increase in criminalization and incarceration.

On the whole, these provisions will improperly increase the criminalization and incarceration of District residents, without addressing the meaningful reforms and services domestic violence survivors and advocates have requested. However, ACLU-D.C. is especially concerned about several provisions included in the Protecting Victims Amendment Act that would expand pretrial detention in the District. The bill adds a new subsection to § 23–1322 of the Code of the District of Columbia[5] requiring a judicial officer to detain a person charged with an intrafamily offense for up to five days (excluding weekends and holidays) until a hearing can be held. This non-discretionary hold is required for individuals charged in an intrafamily offense who were, at the time of the alleged offense, released pending trial or sentencing in another intrafamily offense case. Additionally, the proposed legislation expands the reasons a hearing is required to determine release conditions to include when a case involves an alleged offense committed against an intimate partner if, at the time of the offense, the person charged had a prior conviction within the previous five years for an intrafamily or comparable offense, or was subject to a temporary protection order, civil protection order, or foreign protection order.

The bill amends § 23–1329 of the Code,[6] creating a rebuttable presumption against continued pretrial release, if while on release, there is probable cause to find that the person has committed a dangerous or violent crime under the bill's amended definition, or an offense against the victim in the underlying case. The bill also makes permanent certain provisions first enacted in the Secure DC Omnibus Amendment Act of 2024[7] that were set to expire, including a provision creating a rebuttable presumption for pretrial detention of a child if there is substantial probability that the child committed certain crimes; and other provisions that expand the presumption of pretrial detention on probable cause findings under D.C. Code § 23–1322(c)[8] and § 23–1325(a).[9]

The bill's expansion of eligibility for pretrial detention is concerning because it infringes upon our fundamental right to due process of law under the Constitution, and interferes with judicial discretion to make individual pretrial release determinations based on the specific circumstances of each case. It is well-established that expanding pretrial detention does not actually keep communities safer; in fact, research shows that detaining a person before their trial actually contributes to rates of re-offense and re-arrest. The bill's expansion of pretrial detention will have a disproportionate impact on the District's

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[4] *See, e.g.* Code of the District of Columbia § 22–4503. Unlawful possession of firearm; § 22–3134. Penalties [Stalking]; § 22–404.04. Strangulation.
[5] Code of the District of Columbia, § 23–1322. Detention prior to trial. Available at https://code.dccouncil.gov/us/dc/council/code/sections/23-1322.
[6] Code of the District of Columbia, § 23–1329. Penalties for violation of conditions of release. Available at https://code.dccouncil.gov/us/dc/council/code/sections/23-1329.
[7] D.C. Law 25-175, effective June 8, 2024 (D.C. Law 25-175; 71 DCR 7353). Available at https://code.dccouncil.gov/us/dc/council/laws/25-175.
[8] Code of the District of Columbia, § 23–1322. Detention prior to trial. Available at https://code.dccouncil.gov/us/dc/council/code/sections/23-1322.
[9] Code of the District of Columbia, § 23–1325. Release in first degree murder, second degree murder, and assault with intent to kill while armed cases or after conviction. Available at https://code.dccouncil.gov/us/dc/council/code/sections/23-1325.

Black residents,[10] who are already overrepresented in the incarcerated population in D.C. For these reasons, we urge Council to reject this bill and its harmful expansion of pretrial detention.

a. Every person has the constitutional right to be presumed innocent until proven guilty.

The Fifth and Fourteenth Amendments protect everyone's right to due process of law. This right is foundational; when the government denies fair treatment to particular individuals or operates with unfair procedures, it makes it impossible to enforce the other rights guaranteed by the Constitution. The ACLU-D.C. works to protect our rights to due process everywhere in settings as varied as the local courts, federal workplaces, and schools.

We all have the constitutional right to be presumed innocent until proven guilty. Pretrial detention does just the opposite – it treats certain people as guilty until proven innocent. The pretrial detention provisions in the proposed bill will expand eligibility for pretrial detention, and in some cases will compel judges into a presumption of pretrial detention based on a charge of certain crimes, prior to a conviction. Pretrial releases are not driving crime in the District: according to data from D.C.'s Pretrial Services Agency, during Fiscal Year 2025, 88 percent of people released pretrial were not rearrested, and less than one percent were rearrested for a violent offense while awaiting trial.[11] But even the small percentage of people who are rearrested and charged while on release pending trial must still be afforded the full breadth of their due process and constitutional rights. Our laws must live up to the democratic ideals and values required by our Constitution.

Under current law (including D.C. Code § 23–1321 (Release prior to trial) and § 23–1322 (Detention prior to trial)), when determining whether a person may be detained pretrial, the judicial officer must assess whether there is a condition or combination of conditions that can assure the appearance of the defendant at their required court appearances, and assure the safety of other people and the community. When a person is charged with an applicable offense and appears before a judicial officer, the judicial officer issues an order that, pending trial, the person will be released on personal recognizance or upon execution of an unsecured appearance bond; released on a condition or combination of conditions; temporarily detained to permit revocation of condition release under § 23-1322; or detained under § 23-1322(b).[12] Every set of circumstances is different, and judges routinely assess relevant conditions and make a determination based on the context of each case as to whether a person should be detained before their trial. The proposed provisions in the Protecting Victims Amendment Act do not address specific domestic violence lethality or dangerousness factors in detention decisions, instead removing judicial discretion based on certain charges. Judges should not have their hands tied and forced to presume detention based on a charge of certain crimes, over something that might be a better approach to safety given the specific circumstances and domestic violence dynamics, such as mental health, substance use, or anger management resources.

Beyond the importance of maintaining judicial discretion and the ineffectiveness of pretrial detention in promoting public safety, it is our constitutional right to be presumed innocent until proven guilty. We all deserve to be both safe from violence and from abuse of power. The expansion of eligibility

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[10] Bill 26-0187, Racial Equity Impact Assessment, PEACE DC Omnibus Amendment Act of 2025, available at https://www.dropbox.com/scl/fi/z6r9eujcw2ki8iw0m00s0/B26-0187-Peace-DC-Omnibus-Print-REIA.pdf?rlkey=luxjeeu6gn1ljqekdqq3g9aq&st=i4e4wv5n&dl=0.

[11] Pretrial Services Agency for the District of Columbia, Key Data and Operational Information FY 2025, available at https://www.psa.gov/sites/default/files/2026-01/FY25 Key Data and Operational Info.pdf.

[12] Code of the District of Columbia, § 23–1321. Release prior to trial. Available at https://code.dccouncil.gov/us/dc/council/code/sections/23-1321.

for pretrial detention in the proposed bill will not make our communities safer, and infringes on the due process rights afforded to every person under the Constitution.

b. Expanding pretrial detention will not make District families and communities safer.

If increasing public safety is the goal, pretrial detention is not the way. As previously mentioned, we know that pretrial releases are not driving crime in the District. The District's Pretrial Services Agency's own data shows that in Fiscal Year 2025, 88 percent[13] of people released pretrial were not rearrested, and less than one percent were rearrested for a violent offense while awaiting trial.[14] And while public safety is an important concern when considering individuals charged with violent crimes, research suggests that pretrial detention often makes communities far *less* safe than expected. A study by the Prison Policy Initiative that examined cases in four states and nine cities found that efforts to ensure that more defendants could remain at home instead of in a jail cell while awaiting trial did not negatively impact public safety.[15] In fact, they concluded that in each of the major cities, including Washington, D.C., crime rates did not increase after these reforms were implemented.[16]

In fact, data from the Prison Policy Initiative shows that pretrial detention can actually increase the likelihood that an individual will be rearrested in the future.[17] There are several reasons for this. When people are detained while awaiting trial, they are separated from a multitude of resources that help improve and sustain their lives, including their families, communities, and jobs.[18] This often leads to instability and loss of income and other resources, and contributes to a cycle of involvement in the criminal legal system. When a person loses their job or housing while detained, for example, they may later be forced to make difficult choices in order to survive and provide for their dependents. Additionally, their ability to access their lawyer or public programs that promote diversion is also significantly decreased. Pretrial detention for any length of time can pose risks to a person's health, employment, and reputation in their community, while also impacting the likelihood that they plead guilty just so that they are able to return home.[19] Even short periods of pretrial incarceration can destabilize a person's life in ways that increase the likelihood of future contact with the legal system.[20]

Additionally, survivors of domestic violence are often criminalized in domestic violence situations, and are likely to be negatively impacted by measures intended for abusers. Unfortunately, the

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[13] Pretrial Services Agency for the District of Columbia, Key Data and Operational Information FY 2025 (Quarters 1 through 3), available at https://www.psa.gov/sites/default/files/2025-09/PSA%20FY25%20Q1-3.pdf.
[14] Pretrial Services Agency for the District of Columbia, Key Data and Operational Information FY 2025, available at https://www.psa.gov/sites/default/files/2026-01/FY25 Key Data and Operational Info.pdf.
[15] Staudt, Sarah, "Releasing people pretrial doesn't harm public safety," Prison Policy Initiative, July 6, 2023, available at https://www.prisonpolicy.org/blog/2023/07/06/bail-reform/.
[16] *Id.*
[17] *Id.*
[18] Digard, Leon, "Justice Denied: The Harmful and Lasting Effects of Pretrial Detention," Vera Institute of Justice, April 2019, available at https://vera-institute.files.svdcdn.com/production/downloads/publications/Justice-Denied-Evidence-Brief.pdf.
[19] Golembeski, Cynthia, et al., "Jails and Pretrial Detention: A Human Rights and Health Justice Problem." ThinkGlobalHealth. January 31, 2023, available at https://www.thinkglobalhealth.org/article/jails-and-pretrial-detention-human-rights-and-health-justice-problem; Digard, Leon, "Justice Denied: The Harmful and Lasting Effects of Pretrial Detention," Vera Institute of Justice, April 2019, available at https://vera-institute.files.svdcdn.com/production/downloads/publications/Justice-Denied-Evidence-Brief.pdf.
[20] Digard, Leon. "Justice Denied: The Harmful and Lasting Effects of Pretrial Detention," Vera Institute of Justice, April 2019, available at https://vera-institute.files.svdcdn.com/production/downloads/publications/Justice-Denied-Evidence-Brief.pdf.

criminal legal system is often used against survivors, and law enforcement does not always accurately assess a domestic violence situation when making charging decisions. Survivors who are treated as abusers or otherwise criminalized would be subject to the bill's enhanced charges and penalties, including pretrial detention. This might play out, for example, in a family with children where both partners are charged after a domestic violence incident, and then detained pretrial. Even if one partner was treated and charged as an abuser erroneously, both parents' detention could create an incredibly problematic situation for their children.

The government has certain tools and resources available to protect individuals when there are concerns about victim safety, including the Crime Victims Compensation Program (CVCP), and other discretionary funds that can be used to provide support to victims of domestic violence where needed. While changes are needed to improve the accessibility of these programs,[21] expanding and improving their utilization, along with other restorative and preventative investments, will better serve the safety of all D.C. residents than expanding the use of pretrial detention.

The bottom line is that locking more people up pretrial can have a net negative effect on public safety by separating people from their support networks, jobs, and housing. Even short periods of unnecessary detention increase a person's risk of re-offense and re-arrest. Rising recidivism rates do not make survivors of domestic violence, or our broader communities, safer overall. Expanding eligibility for pretrial detention through the Protecting Victims Amendment Act may actually contribute to rising recidivism rates, which does not help to accomplish our shared goal of improving public safety for survivors of domestic violence or our broader community.

c. Expanding pretrial detention will have a disproportionate impact on the District's Black residents.

Expanding pretrial detention will increase the likelihood that Black residents are detained, which will in turn increase the number of Black residents harmed by the conditions in the D.C. jail and involved with the criminal legal system. National research shows that "in large urban areas, Black felony defendants are 25% more likely than white defendants to be held pretrial."[22]

In the District, Black residents are far more likely to be arrested than white residents.[23] And although Black residents make up less than half of the District's population, they account for 90% of the incarcerated population.[24] Data from the Criminal Justice Coordinating Council shows that since Secure DC's enactment in 2024, which included provisions that expanded pretrial detention, rates of pretrial detention in the District rose from 51% to 65%.[25] If enacted, the Protecting Victims Amendment Act will also likely increase rates of pretrial detention. Because of their disproportionate representation in the criminal legal system, Black residents will experience this increase most acutely.

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[21] DC Justice Lab, Victims Compensation and Flexible Financial Assistance, https://dcjusticelab.org/victims-compensation-and-flexible-financial-assistance/.
[22] National Association of Criminal Defense Lawyers, "Race and Pretrial," December 7, 2022, available at https://www.nacdl.org/Content/RacialDisparityPretrial.
[23] MPD Adult Arrests (2013-2024), https://mpdc.dc.gov/publication/mpd-adult-arrests-2013-2024.
[24] Bill 26-0187, Racial Equity Impact Assessment, PEACE DC Omnibus Amendment Act of 2025, available at https://www.dropbox.com/scl/fi/z6r9eujcw2ki8iw0m00s0/B26-0187-Peace-DC-Omnibus-Print-REIA.pdf?rlkey=luxjeeu6gn1lljqekdqq3g9aq&st=i4e4wv5n&dl=0.
[25] Criminal Justice Coordinating Council, "An Analysis of Pretrial Detention Before and After Secure DC," May 2025, available at https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/Public Report CJCC Pretrial Detention Report 5-7-2025.pdf.

Black and Brown and other communities of color, LGBTQIA+ individuals, and other marginalized communities continue to experience disproportionate engagement with law enforcement and the criminal legal system that, if left unaddressed, will be an active barrier to experiencing the improved accountability or safety the Protecting Victims Amendment Act claims it will create. Expansion of pretrial detention in the District will particularly impact Black residents by continuing to increase the number of Black residents who are detained while they await trial, increasing their likelihood of remaining in the criminal legal system and risking their exposure to damaging conditions in the D.C. Jail.

II. The Supporting Survivors of Domestic Violence and Abuse Amendment Act is a step in the right direction, but Council must continue to work with survivors and advocates to develop meaningful reform.

The Supporting Survivors of Domestic Violence and Abuse Amendment Act takes a different, and welcome, approach to legislating around reforms that are designed to protect survivors of domestic violence and promote public safety overall. It is a step in the right direction toward recognizing the needs of domestic violence survivors.

Given our concerns about the expansion of eligibility for pretrial detention in the Protecting Victims Amendment Act, we are glad to see that the relevant provision of the Supporting Survivors of Domestic Violence and Abuse Amendment Act recognizes the importance of judicial discretion in pretrial detention determinations. This bill codifies the lethality factors that a judicial officer may consider for pretrial detention when a person is charged with an intrafamily offense or violation of a civil protection order. There is no codification under current law alerting judicial officers, complainants, or lawyers to the ways in which certain risk factors in domestic violence situations, such as previous conviction of domestic violence or violation of protective orders and anti-stalking orders, are associated with heightened lethality.

The bill states that a judicial officer may, in determining whether any condition or combination of conditions of release will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account information available concerning the enumerated risk factors. Consideration of these factors for pretrial detention would apply only to those charged with an intrafamily offense or violation of a civil protection order. Although our concerns regarding expansion of pretrial detention remain, this is a more tailored and reasonable approach to judicial discretion by only pointing out information that may be considered in pretrial detention determinations, rather than the presumption changes proposed in the Protecting Victims Amendment Act.

Still, this bill represents the baseline, and more must be done to protect victims and survivors. ACLU-D.C. urges Council to continue to work closely with domestic violence survivors and advocates to understand the context of the issues that arise in these sensitive and complex situations, and legislate accordingly. We urge Council to take a holistic approach to public safety by increasing support and services for families and communities across the whole of D.C. government, rather than focusing on increased criminalization. In particular, Council must further strengthen support for victims and survivors of domestic violence to achieve autonomy and safety for themselves and their families. This includes fully funding the District programs, services, and organizations that work with and support survivors and address trauma, and clearing barriers that prevent survivors from full participation in community institutions. Additionally, more information is needed on the proposed MPD Domestic Violence Response Unit, including on the responsibilities of the detectives, lieutenants, and data specialist, including the type of data they will analyze and the scope of their analysis and reporting.

We urge Chairperson Pinto and members of the Committee to take our concerns regarding the Protecting Victims Amendment Act into consideration, and reject this legislation as currently drafted.

Additionally, we thank Chairperson Pinto and members of the Committee for efforts to work with the survivor community to put forth the Supporting Survivors of Domestic Violence and Abuse Amendment Act, and urge continued communication with advocates and survivors around future legislative efforts designed to protect this community. We are confident that this collaboration will lead to a safer, stronger D.C. for all.

ACLU District of Columbia